IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF VIRGINIA Alexandria Division

SONY MUSIC ENTERTAINMENT, et al., Plaintiffs,))))
v.) Case No. 1:18-cv-950-LO-JFA) Hon. Liam O'Grady
Cox Communications, Inc., et al.,	
Defendants.))

<u>ORDER</u>

This matter comes before the Court on Plaintiffs' oral motion to reconsider the Court's conditional grant of Defendants' Motion *in Limine* No. 9 regarding evidence relating to Cox's terminations of subscribers for non-payment. Dkt. 499. The Court's Order specified that if "Cox suggests that they terminate lots of customers for cause," then reference to termination for non-payment can be introduced. Dkt. 590 at 5.

It is the nature of pre-trial motions that the Court sometimes cannot predict the Parties' exact approaches to and framework for arguments. Here, the Court believed, incorrectly, that the argument surrounding the graduated response program would involve how many notices were reasonable and if termination was appropriate within that framework. Instead, Cox asserted in its opening that it did not terminate customers because it believes it occupies a pivotal space in its subscribers' overall health and well-being and ability to perform the most basic functions of society.

Given Defendants' argument that, frankly, customers need Cox's internet service to survive in our society, the Court agrees with Plaintiffs that the broader evidence of subscriber

termination decisions by Cox are relevant. Specifically, the Court **VACATES** its conditional grant of Defendants' Motion *in limine* in its Order of November 19, 2019 (Dkt. 590).

Defendants' motion is hereby **DENIED**, and Plaintiffs may introduce evidence of Cox's terminations for non-payment as identified in Motion *in limine* No. 9 (Dkt. 499).

It is SO ORDERED.

December 3, 2019 Alexandria, Virginia Liam O'Grady United States District Judge